

SOLICITOR

TO: Mail Stop 8 Director of the U.S. Patent & Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	AUG 18 2008 U.S. PATENT & TRADEMARK OFFICE	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
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In Compliance with 35 § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been
 filed in the U.S. District Court Northern District of California on the following ☒ Patents or ☐ Trademarks:

DOCKET NO. CV 08-03844 MEJ	DATE FILED 8/14/2008	U.S. DISTRICT COURT
PLAINTIFF BOSTON SCIENTIFIC CORP		DEFENDANT MEDTRONIC INC
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 5,556,383		
2 5,830,182		
3 6,406,457		
4 5,348,538		
5		

In the above—entitled case, the following patent(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading		
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK	
1			
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In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT

CLERK Richard W. Wieking	(BY) DEPUTY CLERK Lashanda Scott	DATE August 14, 2008
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Copy 1—Upon initiation of action, mail this copy to Commissioner Copy 3—Upon termination of action, mail this copy to Commissioner
 Copy 2—Upon filing document adding patent(s), mail this copy to Commissioner Copy 4—Case file copy

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25 UNITED STATES DISTRICT COURT
26 NORTHERN DISTRICT OF CALIFORNIA

27 BOSTON SCIENTIFIC CORP.,

28 Plaintiff,

vs.

29 MEDTRONIC, INC., MEDTRONIC
30 VASCULAR, INC., MEDTRONIC USA, INC.,
31 MEDTRONIC VASCULAR GALWAY, LTD.

32 Defendants.

Case No.

COMPLAINT FOR PATENT
INFRINGEMENT

DEMAND FOR JURY TRIAL

ORIGINAL
FILED

AUG 12 2008

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

E-filing

MEJ

CV

08

3844

1 Plaintiff Boston Scientific Corporation ("Boston Scientific") files this Complaint against
2 Defendants Medtronic, Inc., Medtronic Vascular, Inc., Medtronic USA, Inc., and Medtronic Vascular
3 Galway, Ltd. (collectively "Medtronic").

4 **Parties**

5 1. Boston Scientific is a Delaware corporation with its principal place of business in
6 Massachusetts.

7 2. Medtronic, Inc. is a Minnesota corporation with its principal place of business in
8 Minnesota.

9 3. Medtronic Vascular, Inc. is a Delaware corporation with its principal place of business
10 in California.

11 4. Medtronic USA, Inc. is a Minnesota corporation with its principal place of business in
12 Minnesota.

13 5. Medtronic Vascular Galway, Ltd. is a Republic of Ireland corporation with its principal
14 place of business in Galway, Ireland.

15 **Jurisdiction and Venue**

16 6. This is an action for patent infringement under the patent laws of the United States for
17 which this Court has jurisdiction under 28 U.S.C. § 1338(a).

18 7. Personal jurisdiction over Medtronic is proper in this district because the principal place
19 of business of Medtronic Vascular, Inc. is in this district and because the infringing acts being
20 complained of are occurring in this district. Venue in this district is proper under 28 U.S.C. §§
21 1391(b), 1391(c) and 1400(b).

22 **Intradistrict Assignment**

23 8. This is an Intellectual Property Action within the meaning of the Court's Assignment
24 Plan, and therefore is subject to assignment on a district-wide basis pursuant to Civil Local Rule 3-
25 5(b).

26 **First Cause of Action**

27 9. Boston Scientific incorporates by reference the allegations of paragraphs 1-8.
28

10. Boston Scientific is the owner of U.S. Patent No. 5,556,383 ("the '383 patent"), entitled "Block Copolymer Elastomer Catheter Balloons" and issued on September 17, 1996. A copy of the '383 patent is attached as Exhibit 1.

11. Medtronic has infringed and continues to infringe directly and/or indirectly the '383 patent under 35 U.S.C. § 271. Specifically, Medtronic makes, uses, offers to sell, and/or sells within the United States and imports into the United States balloons formed from a PEBAX-based block copolymer. These balloons are for balloon catheters, stent delivery systems and stent delivery systems for deployment of drug-eluting stents, including, but not limited to, the Stormer, Sprinter, and Endeavor Sprint products.

12. On information and belief, Medtronic will be introducing its Endeavor Sprint products in the near future.

13. On information and belief, Medtronic's infringement is willful and occurred with knowledge of the '383 patent.

14. Pursuant to 35 U.S.C. § 283, Boston Scientific is entitled to an injunction against further infringement. If Medtronic's infringing activities are not enjoined, Boston Scientific will suffer irreparable harm that cannot be adequately compensated by a monetary award.

15. Boston Scientific has suffered economic harm as a result of Medtronic's infringing activities in an amount to be proven at trial.

Second Cause of Action

16. Boston Scientific incorporates by reference the allegations of paragraphs 1-8.

17. Boston Scientific is the owner of U.S. Patent No. 5,830,182 ("the '182 patent"), entitled "Block Copolymer Elastomer Catheter Balloons" and issued on November 3, 1998. A copy of the '182 patent is attached as Exhibit 2.

18. Medtronic has infringed and continues to infringe directly and/or indirectly the '182 patent under 35 U.S.C. § 271. Specifically, Medtronic makes, uses, offers to sell, and/or sells within the United States and imports into the United States balloons formed from a PEBAX-based block copolymer. These balloons are for balloon catheters, stent delivery systems and stent delivery systems

1 for deployment of drug-eluting stents, including, but not limited to, the Stormer, Sprinter, and
2 Endeavor Sprint products.

3 19. On information and belief, Medtronic will be introducing its Endeavor Sprint products
4 in the near future.

5 20. On information and belief, Medtronic's infringement is willful and occurred with
6 knowledge of the '182 patent.

7 21. Pursuant to 35 U.S.C. § 283, Boston Scientific is entitled to an injunction against further
8 infringement. If Medtronic's infringing activities are not enjoined, Boston Scientific will suffer
9 irreparable harm that cannot be adequately compensated by a monetary award.

10 22. Boston Scientific has suffered economic harm as a result of Medtronic's infringing
11 activities in an amount to be proven at trial.

12 **Third Cause of Action**

13 23. Boston Scientific incorporates by reference the allegations of paragraphs 1-8.

14 24. Boston Scientific is the owner of U.S. Patent No. 6,406,457 ("the '457 patent"), entitled
15 "Block Copolymer Elastomer Catheter Balloons" and issued on June 18, 2002. A copy of the '457
16 patent is attached as Exhibit 3.

17 25. Medtronic has infringed and continues to infringe directly and/or indirectly the '457
18 patent under 35 U.S.C. § 271. Specifically, Medtronic makes, uses, offers to sell, and/or sells within
19 the United States and imports into the United States balloons formed from a PEBAX-based block
20 copolymer. These balloons are for balloon catheters, stent delivery systems and stent delivery systems
21 for deployment of drug-eluting stents, including, but not limited to, the Stormer, Sprinter, and
22 Endeavor Sprint products.

23 26. On information and belief, Medtronic will be introducing its Endeavor Sprint products
24 in the near future.

25 27. On information and belief, Medtronic's infringement is willful and occurred with
26 knowledge of the '457 patent.

1 28. Pursuant to 35 U.S.C. § 283, Boston Scientific is entitled to an injunction against further
2 infringement. If Medtronic's infringing activities are not enjoined, Boston Scientific will suffer
3 irreparable harm that cannot be adequately compensated by a monetary award.

4 29. Boston Scientific has suffered economic harm as a result of Medtronic's infringing
5 activities in an amount to be proven at trial.

6 **Fourth Cause of Action**

7 30. Boston Scientific incorporates by reference the allegations of paragraphs 1-8.

8 31. Boston Scientific is the owner of U.S. Patent No. 5,348,538 ("the '538 patent"), entitled
9 "Shrinking Balloon Catheter Having Nonlinear or Hybrid Compliance Curve" and issued on
10 September 20, 1994. A copy of the '538 patent is attached as Exhibit 4.

11 32. Medtronic has infringed and continues to infringe directly and/or indirectly the '538
12 patent under 35 U.S.C. § 271. Specifically, Medtronic makes, uses, offers to sell, and/or sells within
13 the United States and imports into the United States balloons formed from a PEBAX-based block
14 copolymer. These balloons are for balloon catheters, stent delivery systems and stent delivery systems
15 for deployment of drug-eluting stents, including, but not limited to, the Stormer, Sprinter, and
16 Endeavor Sprint products.

17 33. On information and belief, Medtronic will be introducing its Endeavor Sprint products
18 in the near future.

19 34. On information and belief, Medtronic's infringement is willful and occurred with
20 knowledge of the '538 patent.

21 35. Pursuant to 35 U.S.C. § 283, Boston Scientific is entitled to an injunction against further
22 infringement. If Medtronic's infringing activities are not enjoined, Boston Scientific will suffer
23 irreparable harm that cannot be adequately compensated by a monetary award.

24 36. Boston Scientific has suffered economic harm as a result of Medtronic's infringing
25 activities in an amount to be proven at trial.

26 **Request for Relief**

27 Boston Scientific respectfully requests that the Court grant the following relief:
28


- 1 (a) declare that Medtronic has directly and/or indirectly infringed the '383, '182, '457, and
2 '538 patents;
- 3 (b) preliminarily and permanently enjoin Medtronic from further infringement of the '383,
4 '182, '457, and '538 patents;
- 5 (c) award damages for infringement of the '383, '182, '457, and '538 patents, said damages
6 to be trebled if willful infringement is found;
- 7 (d) award Boston Scientific reasonable attorneys fees to enforce the '383, '182, '457, and
8 '538 patents;
- 9 (e) award Boston Scientific costs of suit to enforce the '383, '182, '457, and '538 patents;
10 and
- 11 (f) award Boston Scientific such other and further relief as the Court may deem just and
12 proper.

13 **Demand For Jury Trial**

14 Boston Scientific hereby demands a jury trial for all issues triable in this action.

15 Dated: August 12, 2008

HOWREY LLP

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17 
18 Katharine L. Altemus

19 Attorneys for
20 BOSTON SCIENTIFIC CORP.
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